

TABLE 1
ARGUMENTS FOR DISMISSAL BY COUNT

| | <u>LACK OF JURISDICTION</u> (Rule 12(b)(1)) | | <u>FAILURE TO STATE A CLAIM</u> (Rule 12(b)(6)) |
|--------------------|--|--|--|
| | LACK OF STANDING | LACK OF RIPENESS | |
| Count One | ¶¶ 56(a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l), (m), (n) | ¶¶ 56(a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l), (m), (n) | |
| Count Two | | | ALL |
| Count Three | ¶¶ 71(c), (e), (f) | | |

TABLE 2
BREAKDOWN OF COUNT ONE CLAIMS BY RULE

| | LACK OF STANDING | | LACK OF RIPENESS | |
|--|--|---|--|--|
| | Lack of Constitutional Standing | Lack of Prudential Standing | Unripe Because No Hardship | Unripe Because Not Fit for Judicial Resolution |
| Rule 78 (Continuing Applications) | ¶¶ 56(b), (c), (d), (e), (f), (g), (h), (k), (l), (m), (n) | ¶¶ 56(b), (f), (g), (h), (k), (l), (m), (n) | ¶¶ 56(b), (c), (d), (e), (f), (g), (h), (k), (l), (m), (n) | ¶¶ 56(b), (c), (d), (e), (f), (g), (h), (k), (l), (m), (n) |
| Rule 114 (Requests for Continued Examination) | ¶ 56(j) | ¶ 56(j) | ¶ 56(j) | ¶ 56(j) |
| Rule 75 (Claims) | | ¶ 56(a) | ¶ 56(a) | |